THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 15580 of 2007

Date:13-09-2007

Between:

Thota Vijay Kumar and two others ...
Petitioners

AND

The Joint Collector, Ranga Reddy and three others
..
Respondents

ORDER:

The petitioners seek a writ of mandamus to set aside the order No. D1/281/2006, dated 25.04.2007, the pattadar pass book and title deed issued by the respondents 2 and 3 simultaneously in favour of the 4th respondent by violating Section 5(5) of the Record of Rights Act, 1971, (for short 'the Act') as illegal and arbitrary and consequently to direct the second respondent/R.D.O. to stay the further proceedings in case No.C/3124/2006 and a further direction to the first respondent/Joint Collector to set aside the rejection orders in case No. D1/281/2006.

The case of the petitioners is that they are the absolute owners and possessors of property of an extent of Ac.04.06 guntas in Sy.No.279 situated at Shankarpally village and mandal, Ranga Reddy District. It is stated that the names of the petitioners were also entered in the revenue records in respect of the said land in question and to rectify the said revenue records, the 4th respondent herein filed an application before the Mandal Revenue Officer, Shankarpally under Section 5(4) of the Act and the said representation of the 4th respondent was considered and accepted his application directing for amendment of the ROR Form No.I and pahanies and accordingly, the name of the 4th respondent was recorded in respect of the said property.

Aggrieved by the said order of the Mandal Revenue Officer, Shankarpally, dated 23.09.2006 in Case No.B/277/06, the petitioners have filed an appeal No. C/3124/2006 before the Revenue Divisional Officer, Chevella, Ranga Reddy District and the R.D.O. while admitting the appeal petition, by order dated 4.11.2006 granted stay of the said

order of the M.R.O., Shankarpally till 25.11.2006.

It is stated that the stay order has not been extended and when the appeal has been filed within the prescribed time, the title deeds have been issued in favour of the 4th respondent on 24.10.2006 before grant of stay by the R.D.O.

Aggrieved by the said order of the R.D.O. in not extending the stay, the petitioners have filed a representation before the Joint Collector, Ranga Reddy District and the Joint Collector by order dated 25.04.2007 in Case No.D1/281/2007 rejected the revision filed under Section 9 of A.P. Right in Land and Pattedar Pass Books Act, 1971 on the ground that the parallel proceedings by way of appeal as well as revision are not maintainable.

I am of the opinion that there is no justification in dismissing the revision by the Joint Collector. The revision is filed against the order, dated 04.11.2006 of the Revenue Divisional Officer in granting limited stay. Therefore, any order passed by the R.D.O., the revision lies to the Joint Collector.

Accordingly, the order passed by the Joint Collector in Case No.D1/281/2007, dated 25.04.2007 is set aside and as the appeal is admittedly pending before the R.D.O., the R.D.O. is directed to hear the appeal after giving reasonable opportunity to the petitioners as well as the 4th respondent and pass appropriate orders in accordance with law.

Merely because the title deeds and pattadar pass books have been issued in favour of the 4th respondent pursuant to the orders of the M.R.O., dated 23.09.2006, it cannot be said that the appeal has become infructuous and the appellate authority has no power to allow the appeal setting aside the order of the M.R.O. If ultimately the appellate authority/R.D.O. allows the appeal, the title deeds and the

pattadar pass books issued in favour of the

4th respondent shall stand cancelled.

Accordingly, the writ petition is disposed of directing the 2nd respondent to consider and dispose of the appeal after giving reasonable opportunity to all the concerned as expeditiously as possible, in accordance with law. No costs.

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V.ESWARAIAH, J.

Date:13.09.2007
ccm